



**UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY**

South Tower - Suite 1950
225 Peachtree Street
Atlanta, GA 30303

April 22, 2013

Jennifer Hicks
jhicks1019@gmail.com

TRANSMITTED BY E-MAIL

Re: Freedom of Information Act Request
Case Nos. AT-CA-12-0203, AT-CA-13-0116 and AT-CA-13-0188

Dear Ms. Hicks:

This responds to your request of April 12, 2013, whereby you requested certain information under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended. Specifically, you have requested copies of the documents in case files numbered AT-CA-12-0203; AT-CA-13-0116; and AT-CA-0188. Except for three pages that were not yet in existence at the time of your earlier request (which are being provided now), the documents that may be disclosed under FOIA in Case No. AT-CA-12-0203 were already provided to you by letter of June 29, 2012. In that request, you clarified in a telephone conversation that you were not requesting copies of the documents that you had yourself provided during that investigation.

Based upon your request, the following documents may be disclosed under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended, and copies of the documents are attached to this letter. The documents are described as follows:

- Appeal denial in Case No. AT-CA-12-0203 (three pages)
- Unfair Labor Practice Charge in Case No. AT-CA-13-0116 (three pages)
- Opening Letter in Case No. AT-CA-13-0116 (two pages)
- Designation of Representative Form in Case No. AT-CA-13-0116 (one page)
- ULP data entry form in Case No. AT-CA-13-0116 (one page)
- Dismissal Letter in Case No. AT-CA-13-0116 (three pages)
- Article 18 of Collective Bargaining Agreement in Case No. AT-CA-13-0116 (five pages)
- Unfair Labor Practice Charge in Case No. AT-CA-13-0188 (three pages)
- Opening Letter in Case No. AT-CA-13-0188 (two pages)
- Designation of Representative Form in Case No. AT-CA-13-0188 (one page)
- ULP data entry form in Case No. AT-CA-13-0188 (one page)
- Dismissal Letter in Case No. AT-CA-13-0188 (four pages)

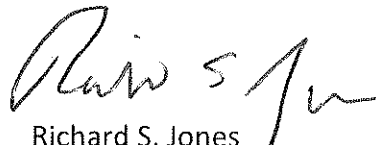
There are no charges associated with granting the request. 5 C.F.R. § 2411.13(b).

It is noted that the case files also contain affidavits, intra-office memoranda, investigative reports and communications between the investigator and the parties individually. However, your request is denied with respect to those documents because such documents are protected from disclosure by Exemptions 5 and 7(C) and (D) of the FOIA. Exemption 5 protects from disclosure intra-agency documents that are not available by law to a party in litigation with the agency, i.e., documents that are prepared during a pre-decisional deliberative process, and documents that represent an attorney's work product. The deliberative process privilege applies to documents that are (1) predecisional, *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993) and (2) deliberative. *Jordan v. Dep't of Justice*, 591 F.2d 753, 774 (D.C. Cir. 1978). These types of materials are exempt under Exemptions 5 and 7(C) and (D) of the FOIA in order to assure that internal deliberations are carried out in the candid manner necessary to effective decision-making. *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 150 (1975). Thus, to the extent that these documents relate to deliberations, their disclosure is not required as disclosure would be destructive to the Regional Director's adjudicative responsibility and integrity.

Exemption 7(C) protects from disclosure information that is personal that has been compiled for law enforcement the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." *McDonnell v. United States*, 4 F.3d 1227, 1255-56 (3d Cir. 1993) (*McDonnell*). Exemption 7(D) protects from disclosure records or information compiled for law enforcement purposes that could reasonably be expected to identify a confidential source. *McDonnell* at 1258.

I am responsible for this determination on your request. Under § 2411.7(a) of the Rules and Regulations of the Authority, you may obtain a review of this determination by filing a written appeal of my determination within thirty (30) days after receipt of this response. You should file the appeal with the Office of the General Counsel, 1400 K Street NW, Second Floor, Washington, D.C. 20424-0001.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rich S Jones", written over a horizontal line.

Richard S. Jones
Regional Director

Enclosures

cc: Richard Zorn
FOIA Officer for the General Counsel
Federal Labor Relations Authority
1400 K Street NW, Second Floor
Washington, D.C. 20424-0001